

**S.R. 352** - By Cain, Leedom: Congratulating Mr. and Mrs. Ted E. Jones on the occasion of their 65th wedding anniversary.

**H.C.R. 62** - (Ratliff): Designating March 8 and 9, 1995, as Marshall Days.

### ADJOURNMENT

On motion of Senator Truan, the Senate at 11:29 a.m. adjourned, in memory of those who died at the Battle of the Alamo, until 11:00 a.m. tomorrow.

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### APPENDIX

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#### REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

March 3, 1995

STATE AFFAIRS — S.J.R. 29, S.J.R. 30, S.B. 365, S.B. 381, S.B. 382, C.S.S.B. 461, S.B. 618 (Amended)

March 6, 1995

STATE AFFAIRS — C.S.S.B. 9

FINANCE — C.S.S.B. 401

#### SENT TO GOVERNOR

(March 3, 1995)

S.C.R. 35

S.C.R. 66

S.C.R. 68

#### THIRTY-SECOND DAY

(Tuesday, March 7, 1995)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Harris, Sims.

A quorum was announced present.

The Reverend Sylvester E. Chase, Jr., Senior Pastor, Wesley United Methodist Church, Austin, offered the invocation as follows:

O God, we fearlessly and confidently draw near to the throne of grace that we may receive mercy and find grace to help in good time for every need—appropriate help and well-timed help, coming just when we in the State of Texas need it.

Father, we seek—inquire for, require, and request—the peace and welfare of the State of Texas in which You have caused us to live. We pray to You for the welfare of this great state and we do our part by getting involved in it.

We are praying for the welfare, happiness, and protection of our state. For we know that to this we have been called, that we may ourselves inherit a blessing from God—obtain a blessing as heirs, bringing welfare and happiness and protection.

Father, Thy will be done on earth as it is in heaven. Amen, and so be it.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### **LEAVES OF ABSENCE**

On motion of Senator Truan, Senator Harris was granted leave of absence for today on account of illness.

On motion of Senator Truan, Senator Sims was granted leave of absence for today on account of illness.

#### **CO-AUTHORS OF SENATE JOINT RESOLUTION 33**

On motion of Senator Brown and by unanimous consent, Senators Bivins, Galloway, Nixon, and Wentworth will be shown as Co-authors of **S.J.R. 33**.

#### **CO-AUTHORS OF SENATE BILL 897**

On motion of Senator Sims and by unanimous consent, Senators Lucio, Ratliff, and Rosson will be shown as Co-authors of **S.B. 897**.

#### **GUESTS PRESENTED**

Senator Haywood, on behalf of Senator Sims, was recognized and introduced to the Senate a delegation from the Texas Midwest Community Network.

Senator Haywood also introduced Rick Rhodes, former mayor of Sweetwater.

The Senate welcomed its guests.

**MESSAGE FROM THE HOUSE**

House Chamber  
March 7, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

**H.C.R. 118**, Commemorating the sesquicentennial of Texas statehood.

**H.J.R. 34**, Proposing a constitutional amendment to increase the amount of general obligation bonds authorized for veterans' housing assistance.

Respectfully,

Cynthia Gerhardt, Chief Clerk  
House of Representatives

**FLOOR PRIVILEGES GRANTED**

On motion of Senator Henderson and by unanimous consent, floor privileges were granted to Mr. George E. Foreman of Houston, Heavyweight Champion of the World, and his guests.

**SENATE BILL 192 WITH HOUSE AMENDMENT**

Senator Henderson called **S.B. 192** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Amendment**

Amend **S.B. 192** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the administration and responsibilities of The University of Texas M. D. Anderson Cancer Center.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 73.106, Education Code, is amended to read as follows:

Sec. 73.106. PATIENTS. ~~This [Except to the extent of any conflict with this] subchapter governs[, the provisions of Chapter 152, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 3196a, Vernon's Texas Civil Statutes), govern]~~ the admission of patients to the institution and its substations, the support of patients, and other matters relating to patients.

**SECTION 2.** Subsection (c), Section 73.108, Education Code, is amended to read as follows:

(c) ~~The [Each]~~ application ~~may [shall]~~ be accompanied by a written request for the patient's admission by his attending physician which includes:

(1) a statement that he has adequately examined the patient and that the patient has, or is suspected of having, a neoplasm or allied disease;

(2) a statement indicating the duration of the disease, if known, and indicating any accompanying bodily disorder or disorders the patient may have at the time of the application; and

(3) any other information that may be required by the president.

SECTION 3. Subchapter C, Chapter 73, Education Code, is amended by adding Sections 73.112, 73.113, 73.114, and 73.115 to read as follows:

Sec. 73.112. TREATMENT OF INDIGENT PATIENTS. (a) The institution may enter into a contract with a county, public hospital, or hospital district to provide treatment to residents of the county or service area who are eligible for health care assistance under Chapter 61, Health and Safety Code (Indigent Health Care and Treatment Act).

(b) The liability of a county, public hospital, or hospital district to the institution for the treatment of residents of the county or service area by the institution shall not exceed the responsibility of a county as provided for in Chapter 61, Health and Safety Code, unless agreed to by the county, public hospital, or hospital district in a contract entered into pursuant to this section.

(c) If a contract is entered into pursuant to this section, the liability of a county, public hospital, or hospital district under the contract shall take into consideration the actual costs of the institution in providing health care services pursuant to the contract, but in no event shall the liability exceed such costs.

(d) If a contract is not entered into pursuant to this section, the institution shall receive the approval of a county, public hospital, or hospital district before providing nonemergency health care services to an eligible resident of the county or service area. If such approval is not received, the county, public hospital, or hospital district is not liable to the institution for any nonemergency care provided to such persons. If such approval is received, the county, public hospital, or hospital district is liable to the institution as provided in Subsection (b) for the services provided by the institution to such persons.

(e) As used in this section, "eligible resident," "hospital district," "public hospital," and "service area" have the meanings assigned by Chapter 61, Health and Safety Code.

Sec. 73.113. SUFFICIENCY OF INSTITUTIONAL FUNDS, FEES, AND PATIENT BASE. The institution shall ensure that institutional funds and the institution's hospital and clinic fees and patient base are sufficient to fund and achieve the mission and strategic plan of the institution and protect the state's investment in the development of the institution.

Sec. 73.114. INCENTIVE RETIREMENT PLANS. (a) The institution may offer incentive retirement plans to employees of the institution who elect to retire under other state law.

(b) An incentive offered to an employee by the institution must be paid from institutional funds or hospital or clinic fees.

(c) An institutional plan providing for incentive retirement plans must be filed with the Legislative Budget Board not later than the 61st day before the date the plan is implemented.

(d) The institution may not rehire an employee receiving a retirement incentive under this section without the specific approval of the president.

Sec. 73.115. ACQUISITION OF GOODS AND SERVICES. (a) The institution may acquire goods or services by the method that provides the best value to the institution, including:

- (1) competitive bidding;
- (2) competitive sealed proposals;
- (3) catalogue purchase;
- (4) a group purchasing program; or
- (5) an open market contract.

(b) In determining what is the best value to the institution, the institution shall consider:

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the extent to which the goods or services meet the institution's needs;
- (5) the vendor's past relationship with the institution;
- (6) the impact on the ability of the institution to comply with laws and rules relating to historically underutilized businesses;
- (7) the total long-term cost to the institution of acquiring the vendor's goods or services; and
- (8) any other relevant factor that a private business entity would consider in selecting a vendor.

(c) The state auditor may audit purchases of goods or services by the institution.

(d) The institution may adopt rules and procedures for the acquisition of goods or services.

(e) To the extent of any conflict, this section prevails over any other law relating to the purchasing of goods and services except a law relating to contracting with historically underutilized businesses.

(f) Except as otherwise provided by this section, the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) and Chapter 2254, Government Code, do not apply to purchases of goods and services made under this section.

SECTION 4. Subchapter B, Chapter 552, Health and Safety Code, is amended by adding Section 552.020 to read as follows:

Sec. 552.020. APPLICATION. Except as provided by Subchapter C, Chapter 73, Education Code, this subchapter does not apply to The University of Texas M. D. Anderson Cancer Center.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately.

(b) Sections 1 and 4 of this Act and Section 73.112, Education Code, as added by this Act, take effect September 1, 1995.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read.

Senator Henderson moved to concur in the House amendment to **S.B. 192**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

#### **CAPITOL PHYSICIAN**

Senator Wentworth was recognized and presented Dr. Stephen Benold of Georgetown as the "Doctor for the Day."

The Senate welcomed Dr. Benold and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

#### **RESOLUTIONS SIGNED**

The President announced the signing of the following enrolled resolutions in the presence of the Senate:

**H.C.R. 56**

**H.C.R. 103**

#### **SENATE RESOLUTION 353**

Senator Cain offered the following resolution:

**S.R. 353**, Extending best wishes to the citizens of Seagoville as they celebrate Seagoville Day at the State Capitol.

**CAIN  
LEEDOM**

The resolution was read and was adopted by a viva voce vote.

#### **GUESTS PRESENTED**

Senator Turner was recognized and introduced to the Senate a group of students from Jordan School in Crockett.

The Senate welcomed its guests.

#### **GUESTS PRESENTED**

Senator Barrientos was recognized and introduced to the Senate a group of fifth-grade students and their teachers from Hyde Park Baptist School of Austin.

The Senate welcomed its guests.

The Senate welcomed its guest.

Senator Montford offered the following resolution:

**S.R. 309, Declaring March 7, 1995, as Cotton Day at the State Capitol.**

The resolution was again read.

On motion of Senator Bivins and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was previously adopted on Monday, February 27, 1995.

(Senator Truan in Chair)

Senator Henderson was recognized and introduced to the Senate the Magic Circle Republican Women's Club.

The Senate welcomed its guests.

The following bills received from the House were read first time and referred to the committees indicated:

**H.B. 666** to Committee on Education.

**H.B. 735** to Committee on Finance.

The following bills and resolutions were introduced, read first time, and referred to the committees indicated:

**S.C.R. 80 by Armbrister, Montford** **Natural Resources**  
 Encouraging and urging congress to adopt legislation facilitating  
 acquisition of the Bureau of Reclamation interests in existing projects in  
 Texas by the state and local governments.

**S.J.R. 44 by West** **Finance**  
Proposing a constitutional amendment to exempt a portion of the market value of the residence homestead of a disabled or elderly person from ad valorem taxation by a school district.

**S.B. 11 by Zaffirini** Finance  
Relating to the transfer of Texas A&M International University from The Texas A&M University System to The University of Texas System and to changing the name of that university.

- S.B. 367** by Armbrister State Affairs  
Relating to the continuation and functions of the Texas Racing Commission and to the transfer of certain commission functions to the Texas Department of Commerce.
- S.B. 369** by Moncrief Administration  
Relating to the continuation and functions of the State Preservation Board.
- S.B. 370** by Sims, Armbrister Natural Resources  
Relating to the continuation and functions of the Texas Animal Health Commission; providing administrative and criminal penalties.
- S.B. 371** by Sims, Armbrister Natural Resources  
Relating to the continuation and functions of the Texas Food and Fibers Commission.
- S.B. 924** by West State Affairs  
Relating to discrimination by certain accommodations and associations; imposing civil and criminal penalties.
- S.B. 925** by Bivins Economic Development  
Relating to the elimination of the requirement that contractors who contract with a governmental entity maintain workers' compensation insurance coverage for certain employees.
- S.B. 926** by West Finance  
Relating to an exemption of part of the market value of the residence homestead of a disabled or elderly person from ad valorem taxation by a school district.
- S.B. 927** by Zaffirini State Affairs  
Relating to the conveyance of a Texas Turnpike Authority project.
- S.B. 928** by Zaffirini State Affairs  
Relating to certain procedures in connection with providing to voters early voting ballots to be voted by mail.
- S.B. 929** by Barrientos Health and Human Services  
Relating to the regulation of the practice of podiatric medicine.
- S.B. 930** by Whitmire Intergovernmental Relations  
Relating to pension benefits for certain peace officers in certain municipalities.
- S.B. 931** by Rosson Intergovernmental Relations  
Relating to interagency sharing of information concerning delinquent children who are serious habitual offenders; providing a penalty.
- S.B. 932** by Wentworth Criminal Justice  
Relating to the availability of weight-lifting equipment to inmates and defendants confined in a correctional facility.
- S.B. 933** by Shapiro Natural Resources  
Relating to the use of the hazardous and solid waste remediation fee fund.



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| <b>S.B. 934</b> by Zaffirini   | Intergovernmental Relations |
| Relating to the administration, powers, duties, and operation of the Starr County Hospital District of Starr County, Texas.  |                             |
| <b>S.B. 935</b> by Madla   | Natural Resources           |
| Relating to the rate of interest on and collection fees for unpaid assessments by water control and improvement districts.   |                             |
| <b>S.B. 936</b> by Bivins  | Jurisprudence               |
| Relating to issuance of a marriage license.  |                             |
| <b>S.B. 937</b> by Turner  | Finance                     |
| Relating to an increase in the student health center fee at The Texas A&M University System institutions.  |                             |
| <b>S.B. 938</b> by Truan   | Jurisprudence               |
| Relating to the terms of court of the 319th District Court.  |                             |
| <b>S.B. 939</b> by Truan   | Finance                     |
| Relating to tuition at Texas A&M University—Kingsville charged to residents of bordering nations.  |                             |
| <b>S.B. 940</b> by Truan   | Natural Resources           |
| Relating to requiring senate confirmation of the governor's appointment of the city or county elected official and the one resident from the coastal area to the Coastal Coordination Council. |                             |
| <b>S.B. 941</b> by Haywood   | Natural Resources           |
| Relating to a lien in favor of a seller of agricultural chemicals or agricultural seeds; providing penalties.  |                             |
| <b>S.B. 942</b> by Sims, Brown   | Natural Resources           |
| Relating to the On-site Wastewater Treatment Research Council.   |                             |
| <b>S.B. 943</b> by Barrientos  | Finance                     |
| Relating to the imposition, collection, and enforcement of taxes.  |                             |
| <b>S.B. 944</b> by Harris  | Education                   |
| Relating to an exemption from certain testing and remedial coursework for a student with dyslexia or a related disorder who enters a public institution of higher education.                   |                             |
| <b>S.B. 945</b> by Sims, Wentworth   | State Affairs               |
| Relating to alcoholic beverage advertising in licensed premises of certain fraternal organizations.  |                             |
| <b>S.B. 946</b> by Sims, West  | Health and Human Services   |
| Relating to minimum standards for certain child-care facilities.   |                             |
| <b>S.B. 947</b> by Sims, West  | Health and Human Services   |
| Relating to the membership of the State Advisory Committee on Child-Care Administrators and Facilities.  |                             |
| <b>S.B. 948</b> by Sims  | Health and Human Services   |
| Relating to liability insurance required for certain licensed facilities that provide care for children 24 hours a day.  |                             |

<b>S.B. 959</b> by Harris	Administration
Relating to nonsubstantive additions to and corrections in enacted codes, including the nonsubstantive codification of various laws omitted from enacted codes, and to conforming codifications enacted by the 73rd Legislature to other Acts of that legislature.	

**(President in Chair)**

## GUESTS PRESENTED

The Doorkeeper was recognized and announced to the President that Mr. George E. Foreman, Heavyweight Champion of the World, and his guests were at the door of the Senate Chamber.

The President instructed the Doorkeeper to admit Mr. Foreman and his guests. (Floor privileges were previously granted by the Senate.)

## SENATE RESOLUTION 347

Senator Ellis offered the following resolution:

WHEREAS, George Edward Foreman is a native Texan and longtime Houstonian who has earned the enduring respect, admiration, and affection of the citizens of Texas and people around the world; and

WHEREAS, His numerous accomplishments as a professional boxer, minister, counselor to troubled youth, and philanthropist, combined with a

powerful personal magnetism, make him a wonderful role model for people of all ages; and

WHEREAS, The image of his waving a tiny American flag while receiving the gold medal in the heavyweight boxing division during the 1968 Olympics in Mexico City captivated his country; and

WHEREAS, From 1968 until his first "retirement" in 1977, he fought 47 boxing matches and won 45 of those, including 42 by knockouts, and was the Heavyweight Champion of the World from January 22, 1973, until October 30, 1974; and

WHEREAS, He redirected his enormous energies into the ministry, founded the Church of the Lord Jesus Christ in Houston, became an ordained minister in 1979, and has been a spiritual and moral beacon in an era that often lacks stability; and

WHEREAS, In 1984, George and his brother, Roy Foreman, established the George Foreman Neighborhood Youth Center in north Houston, where thousands of adolescents and teenagers have benefitted from a supportive environment offering wholesome activities; and

WHEREAS, George Foreman returned to the boxing ring in 1987, won 24 bouts, and fought in several other memorable fights; and

WHEREAS, At age 45, against all odds, he regained the title as Heavyweight Champion of the World on November 4, 1994, with a stunning knockout of former champion Michael Moorer; and

WHEREAS, Not only has he shared considerable time helping others, but he also has made substantial contributions to support programs that include the AIDS Foundation Stone Soup Kitchen, the American Cancer Society, and Texas Southern University's Endowed Scholarship Fund; and

WHEREAS, His generous gifts to The University of Texas M. D. Anderson Cancer Center have funded a game and waiting room for adolescent patients, and recently he was responsible for donating a substantial amount of money earmarked for funding a major part of a pediatric intensive care unit in the new hospital addition under construction; and

WHEREAS, He has received the Horatio Alger Rags to Riches Award, the March of Dimes Comeback Athlete of the Year Award, the City of Hope Humanitarian Award, and the Jim Thorpe Award, among many other tributes; and

WHEREAS, His remarkable philosophy—built on the belief that anything is possible, regardless of age and through faith in God and in oneself—has inspired millions of people to pursue their dreams; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby express its heartfelt appreciation to George E. Foreman for his continuing personal leadership as an outstanding role model and for demonstrating his commitment to a brighter future for Texas; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for George E. Foreman as an expression of gratitude and high regard of the Senate of the State of Texas.

The resolution was again read.

The resolution was previously adopted on Thursday, March 2, 1995.

#### **PRESENTATION**

Mr. Foreman was escorted to the President's rostrum by Senator Ellis and Senator West.

The President then presented to Mr. Foreman a framed collection of photographs taken on Mr. Foreman's first visit to the Texas Senate in 1973 as Heavyweight Champion of the World.

Mr. Foreman thanked the President and Members and briefly addressed the Senate.

#### **MESSAGE FROM THE HOUSE**

House Chamber  
March 7, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 4**, Relating to the issuance of general obligation bonds for projects relating to corrections institutions and to an emergency appropriation to the Texas Department of Criminal Justice for acquiring, constructing, and equipping corrections institutions.

Respectfully,

Cynthia Gerhardt, Chief Clerk  
House of Representatives

#### **GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate a delegation from the Texas Association of Students Special Services.

The Senate welcomed its guests.

#### **CONCLUSION OF MORNING CALL**

The President at 11:38 a.m. announced the conclusion of morning call.

(Senator Truan in Chair)

#### **SENATE BILL 497 ON SECOND READING**

Senator Madla moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 497** be taken up for consideration at this time:

**S.B. 497**, Relating to qualified patients under the Texas Natural Death Act.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Haywood, Henderson, Lucio, Luna, Madla, Moncrief, Montford,

Nelson, Nixon, Ratliff, Rosson, Shapiro, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Leedom, Patterson, Sibley.

Absent-excused: Harris, Sims.

The bill was read second time.

Senator Madla offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **S.B. 497** by adding new Section 2 to read as follows and renumber subsequent sections accordingly:

SECTION 2. Section 672.004, Health and Safety Code, is amended to read as follows:

Sec. 672.004. FORM OF WRITTEN DIRECTIVE. A written directive may be in the following form:

**"DIRECTIVE TO PHYSICIANS**

"Directive made this \_\_\_\_\_ day of \_\_\_\_\_ (month, year).

"I \_\_\_\_\_, being of sound mind, wilfully and voluntarily make known my desire that my life shall not be artificially prolonged under the circumstances set forth in this directive.

"1. If at any time I should have an incurable or irreversible condition caused by injury, disease, or illness certified to be a terminal condition by \_\_\_\_\_ (number)[two] physician(s), and if the application of life-sustaining procedures would serve only to artificially postpone the moment of my death, and if my attending physician determines that my death is imminent or will result within a relatively short time without the application of life-sustaining procedures, I direct that those procedures be withheld or withdrawn, and that I be permitted to die naturally.

"2. In the absence of my ability to give directions regarding the use of those life-sustaining procedures, it is my intention that this directive be honored by my family and physicians as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from that refusal.

"3. If I have been diagnosed as pregnant and that diagnosis is known to my physician, this directive has no effect during my pregnancy.

"4. This directive is in effect until it is revoked.

"5. I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

"6. I understand that I may revoke this directive at any time.

Signed \_\_\_\_\_

(City, County, and State of Residence)

I am not related to the declarant by blood or marriage. I would not be entitled to any portion of the declarant's estate on the declarant's death. I am not the attending physician of the declarant or an employee of the attending physician. I am not a patient in the health care facility in which the declarant is a patient. I have no claim against any portion of the declarant's estate on the declarant's death. Furthermore, if I am an

employee of a health facility in which the declarant is a patient, I am not involved in providing direct patient care to the declarant and am not directly involved in the financial affairs of the health facility.

Witness \_\_\_\_\_  
Witness \_\_\_\_\_

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

#### **RECORD OF VOTES**

Senators Leedom, Patterson, and Sibley asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### **SENATE BILL 497 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 497** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Haywood, Henderson, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Ratliff, Rosson, Shapiro, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Leedom, Patterson, Sibley.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by a viva voce vote.

#### **RECORD OF VOTES**

Senators Leedom, Patterson, and Sibley asked to be recorded as voting "Nay" on the final passage of the bill.

#### **SENATE BILL 399 ON SECOND READING**

Senator Ellis moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 399** be taken up for consideration at this time:

**S.B. 399**, Relating to qualifications of the executive director of the Teacher Retirement System of Texas.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **SENATE BILL 399 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 399** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 609 ON SECOND READING**

Senator Madla moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **C.S.S.B. 609** be taken up for consideration at this time:

**C.S.S.B. 609**, Relating to municipal regulation of pool yard enclosures.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 609 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 609** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**SENATE BILL 443 ON SECOND READING**

Senator Armbrister, on behalf of Senator Sims, moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 443** be taken up for consideration at this time:

**S.B. 443**, Relating to designation of portions of Farm-to-Market Roads 503 and 1929 as the Ray C. Stoker, Jr., Highway.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 443 ON THIRD READING**

Senator Armbrister, on behalf of Senator Sims, moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 443** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

#### **SENATE BILL 478 ON SECOND READING**

Senator Armbrister moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 478** be taken up for consideration at this time:

**S.B. 478**, Relating to an exemption of certain fire alarm devices from certain license requirements.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **SENATE BILL 478 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 478** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**(President in Chair)**

#### **COMMITTEE SUBSTITUTE**

#### **SENATE BILL 9 ON SECOND READING**

Senator Armbrister moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **C.S.S.B. 9** be taken up for consideration at this time:

**C.S.S.B. 9**, Relating to the functions and systems and programs administered by the Teacher Retirement System of Texas.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read second time.

Senator Leedom offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **C.S.S.B. 9** in SECTION 4 by amending Paragraph (2) of Section 824.2031(b) Government Code to read as follows:



(2) the rate of return on retirement system investments over and above the rate of inflation of the investment portfolio as a whole, of the portion of the investment portfolio entrusted to private investment entities, and of the portion of the investment portfolio entrusted to investment officers who are employees of the retirement system;

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 9 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.B. 9 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by a viva voce vote.

**SENATE BILL 627 ON SECOND READING**

Senator Truan moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that S.B. 627 be taken up for consideration at this time:

**S.B. 627**, Relating to authorizing the Texas State Library and Archives Commission to negotiate an agreement with the appropriate authorities in Mexico for the exchange of certain Alamo and San Jacinto battle flags.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read second time.

Senator Truan offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **S.B. 627** by adding the following as a new SECTION 2 of the bill and renumbering the existing SECTION 2 of the bill appropriately:

"SECTION 2. (a) The Texas State Library and Archives Commission may not use appropriated money but may use gifts or grants to restore the San Jacinto battle flags to a suitable condition under an agreement to trade or lend the flags that is made in accordance with Section 441.0115, Government Code, as added by this Act.

(b) If an agreement to trade or lend the Alamo and San Jacinto battle flags that is made in accordance with Section 441.0115, Government Code, as added by this Act, does not provide that Mexico will restore the Alamo battle flag to a suitable condition before the trade or loan of the flag, the Texas State Library and Archives Commission may not use appropriated money but may use gifts or grants to restore the Alamo battle flag to a suitable condition after the trade or loan of the flags."

The committee amendment was read and was adopted by a viva voce vote.

Senator Truan offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **S.B. 627** on page 1, line 20 after the word "flags" by adding "as long as such conditioning does not alter the authenticity or integrity of the flags"

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 627 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 627** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 401 ON SECOND READING**

Senator Ellis moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **C.S.S.B. 401** be taken up for consideration at this time:

**C.S.S.B. 401**, Relating to the payment of and procedures to enforce payment of taxes and fees collected by the comptroller.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 401 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 401** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Sims.

The bill was read third time and was passed by a viva voce vote.

**REPORT OF COMMITTEE ON NOMINATIONS**

Senator Bivins submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be COMMISSIONER OF EDUCATION: Dr. Michael Alton Moses, Lubbock County.

To be Members of the PARKS AND WILDLIFE COMMISSION: Lee Marshall Bass, Tarrant County; Richard W. Heath, Dallas County; Susan Howard, Kendall County; Nolan Ryan, Brazoria County.

To be Members of the TEXAS BOARD ON AGING: Nancy S. Bohman, Bexar County; Dr. Elena Bastida Gonzalez, Hidalgo County; Dan Roberts, Tarrant County.

To be Members of the CREDIT UNION COMMISSION: Barbara Fry Arnold, Ector County; Susan Chen Jackson, Harris County; Linda Mann, Matagorda County.

To be Members of the CRIME STOPPERS ADVISORY COUNCIL: Lieutenant Darrell W. Bush, Jefferson County; Officer Kelton Todd Varner, Lamar County.

To be Members of the STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS: John G. Farbes, Dallas County; Jose I. Guerra, Travis County; Hubert Oxford III, Jefferson County; Dr. C. H. "Herb" Treat, Travis County.

To be a Member of the TEXAS COMMISSION ON FIRE PROTECTION: Ernest L. Brown, Deaf Smith County.

To be Members of the FIRE FIGHTERS' RELIEF AND RETIREMENT FUND BOARD OF TRUSTEES: Jennifer Sullivan Armstrong, Tarrant County; Robert Barrett, Gaines County; Donald A. Eernisse, Brazoria County; Glenn Dale Neutzler, Washington County; Thomas N. Tourtellotte, Hays County; Merle D. Wilkins, Hays County.

To be Members of the STATE COMMITTEE OF EXAMINERS IN THE FITTING AND DISPENSING OF HEARING INSTRUMENTS: A. L. Burns, Jr., Bowie County; Joycie L. Burns, Freestone County; Larry Wayne Farris, Bexar County; Wallace Hamill, Dallas County; Dr. Austin I. King, Taylor County; Thomas C. Lucenay, McLennan County; Andrew M. Pena, El Paso County; Jane W. Porter, Dallas County; Diane Cecile Shaffer, Jefferson County.

To be Members of the TEXAS HISTORICAL COMMISSION: Betty Elliott Hanna, Stephens County; Karl A. Komatsu, Tarrant County; John Elliott Preston, Childress County.

**NOTICE OF CONSIDERATION OF NOMINATIONS**

Senator Bivins gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

**GUEST PRESENTED**

Senator Ellis was recognized and introduced to the Senate Chief of Police Sam Nuchia of Houston.

The Senate welcomed Chief Nuchia.

**WELCOME AND CONGRATULATORY RESOLUTIONS**

**S.C.R. 81** - By Barrientos: Designating March 9, 1995, as "Texas Dietetic Association Legislative Day" at the Capitol.

**S.R. 355** - By Sims: Welcoming students from the honors government program at Brady High School in McCulloch County.

**S.R. 356** - By Sims: Congratulating Mr. and Mrs. H. H. Cleveland on being named the "Outstanding Citizens of the Year" by the Belton Chamber of Commerce.

**S.R. 357** - By Sims: Recognizing Charles Powell, Mayor of Belton, who has been selected as the 1994 Man of the Year by the Belton Chamber of Commerce.

**S.R. 358** - By Cain: Congratulating the Reverend and Mrs. W. N. Parrish of Tyler on the occasion of their 50th wedding anniversary.

**S.R. 359** - By Ellis: Recognizing Lillian Marie Cook Mitchell of Houston for her 50 years of musical accomplishments and inspirational work.

**S.R. 360** - By Ellis: Congratulating the Reverend Dairy G. Johnson, Sr., on the occasion of his 10th anniversary as pastor of the Bethlehem Missionary Baptist Church in Corsicana.

**ADJOURNMENT**

On motion of Senator Truan, the Senate at 12:28 p.m. adjourned until 11:00 a.m. tomorrow.

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**APPENDIX**

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**REPORTS OF STANDING COMMITTEES**

The following committee reports were received by the Secretary of the Senate:

March 6, 1995

STATE AFFAIRS — **S.B. 472, S.B. 645, S.B. 706**

March 7, 1995

JURISPRUDENCE — S.B. 49, S.B. 169, S.B. 291, S.B. 808, S.B. 636 (Amended), C.S.S.B. 188, C.S.S.B. 511

ECONOMIC DEVELOPMENT — S.B. 524, S.B. 661 (Amended)

NATURAL RESOURCES — S.B. 651, S.B. 652 (Amended), C.S.S.B. 251, C.S.S.B. 271

**SIGNED BY GOVERNOR**

(March 1, 1995)

H.C.R. 9

H.C.R. 15

H.C.R. 61

H.C.R. 63

H.C.R. 72

H.C.R. 98

**THIRTY-THIRD DAY**

(Wednesday, March 8, 1995)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by Senator Armbrister.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Harris, Sims.

A quorum was announced present.

The Reverend Curtis R. Lucas, Senior Pastor, Mount Carmel Missionary Baptist Church, Richmond, offered the invocation as follows:

Our heavenly Father, creator of all mankind, in humble submission I approach Thy throne asking Your choice blessings upon this legislative body, requesting that You instill wisdom, purposely guide, and direct all they attempt. Give each a keen sense of duty and service to and for those they represent from the Panhandle to the Valley, from the deserts of West Texas to the forestlands of the East. Be everything that we need. Give power to the faint and to those that have no might, increase their strength that they may mount up with wings as eagles to run and not be weary, walk and not faint.